

# SPEECH

OF

## HON. R. M. T. HUNTER, OF VIRGINIA,

ON THE

### ADMISSION OF THE STATE OF KANSAS.

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 12, 1853.

The Senate having under consideration the bill to admit the State of Kansas into the Union—Mr. HUNTER said:

MR. PRESIDENT: The question before us is undoubtedly attended with difficulties. Some of these are inherent in the subject itself, but most of them, in my opinion, have been created in the heats and party divisions of the day and by the manner in which that subject has been treated. I believe that if the case could be fairly presented to any impartial mind, it would come to the conclusion that the President had suggested the best remedy for the difficulties by which we are environed and had hit upon the true solution of the Kansas problem. To test the correctness of this position, it will only be necessary to examine the facts as they have occurred.

It was in the year 1854 that the Congress of the United States repealed that restriction which denied to the slaveholding States of the Confederacy equal rights in certain portions of the territory of the Union. That restriction was declared by that Congress, and by the President of the United States to be unconstitutional, inoperative, null, and void. The opinion which they expressed was afterwards sustained by a solemn adjudication of the Supreme Court of the United States; and I think I may say that the election of the present President of the United States, and a majority of the members of the House of Representatives upon this issue, affords probable evidences of the fact that this opinion was sustained by a majority of the people of the United States.

Soon after the passage of this act, the people of Kansas met to elect their first Territorial Legislature. I know that objections have been raised to the manner in which that election was made, and I shall presently come to the consideration of those objections; but it is indisputable that a Legislature was thus elected, and not very long after its election, it submitted it to the people of Kansas to say whether they would call a convention for the purpose of forming a constitution and applying for admission into the Union. At that election, a majority of those who chose to vote, declared in favor of a convention. Upon this, the Legislature passed another act

to provide for a registry of the voters, and a census of the people; and also to provide for the election of members to that convention.

Again, sir, at this election where all voted who chose to vote, a representation was elected to constitute a convention for the purpose of forming a constitution. When this convention met, it proceeded to the creation of a constitution, and when that constitution had been formed, it submitted it to the people of Kansas to say whether the provision in favor of slavery, which it contained, should remain in the constitution or whether it should be stricken out. On that question again, in my opinion, all who chose to vote were allowed to do so; because it was no restriction to say that when a constitution was once adopted they should maintain it until it was regularly and legally altered. Upon that vote it was determined by a majority of those who did vote, that the provision in favor of slavery should be retained. Afterwards, a vote was taken for the election of members to the new government which was ordained by this constitution, and upon that occasion a large vote was cast, some eleven or twelve thousand in number, who, not only by that act, gave their implied assent to this constitution, but who expressly declared when they voted, that they would support and maintain it. It is true that in the mean time a session of the Territorial Legislature had been convened, to meet after the convention to form a constitution, was in session, and that this Legislature provided for taking the sense of the people on the 4th of January, in regard to the Lecompton constitution. It is also true that upon that occasion a large vote is professed to have been cast, by which a majority of some ten thousand declared against this constitution.

These are the circumstances, as I understand them, under which Kansas presents herself here with this Lecompton constitution asking for admission into the Union, and to that admission there are two classes of objectors; the one maintain that the original Legislature, the first Legislature which was elected, was not clothed with legal authority, because, as they assert, an armed invasion of Missourians took possession of the ballot-box, and interfered with a fair expression of popular opinion. Assuming that the action of such a body was invalid, they say there was no law in the proper sense of the term for taking the sense of the people as to a convention; there was no law in the proper sense of the term providing for a registry, and for enabling them to vote for members of a convention; and that the convention itself when it assembled was, therefore, without authority and invalid. They have also maintained, I believe, that some of the counties were not allowed to vote, and that, therefore, the representation in the convention was incomplete.

At this point there comes in another class of objectors, who deny the validity of this convention, because they say that it was not authorized to act by means of what is called an enabling act on the part of Congress. They also insist that this constitution is not the act of the people, because it was not submitted as a whole by the convention to the people for their ratification; and as evidence that the constitution does not only not express the sentiments of the people, but that it is repugnant to their wishes, they refer to the fact that a majority of ten thousand was cast against it, under the law passed by the Territorial Legislature requiring the sense of the people to be taken on the 4th of January.

I propose to take up these objections in their order; and, first, as to the authority of the Legislature. I know that, on one side, the statement has been made that an armed invasion of Missourians took possession of the ballot-box and disturbed the fair expression of opinion; but, on the other



hand, it has been asserted that these Missourians consisted of persons who had "staked out their claims," as it was called, for settlement and pre-emption in the preceeding autumn, and had returned to Missouri, where they could winter, with the intention of coming back again in the spring, when the growth of the grass would enable them to sustain their stock and take possession of their new homes. It has been said that most of those persons did return to Kansas, and did settle upon these claims. That is the statement of the subject on the other side; and I find that, in the report of the Senator from Illinois, (Mr. DOUGLAS,) made two years ago, upon this subject, he took that view of the question. He said:

"For the successful prosecution of such a scheme, the Missourians who lived in the immediate vicinity possessed peculiar advantages over their rivals from the more remote portions of the Union. Each family could send one of its members across the line to mark out his claim, erect a cabin, and put in a small crop, sufficient to give him as valid a right to be deemed an actual settler and qualified voter as those who were being imported by the emigrant aid societies."

In the same report he states the fact, which is worthy of observation, that enough members were elected to each House of the Territorial Legislature to constitute a quorum, in the opinion of the Governor, who, as some thought, was the only judge of the elections and returns; and enough were elected to constitute a quorum of each House in the opinion of the Legislative Assembly itself. In referring to the two reports which were made on that subject, he says that according to either, there was a quorum of each House elected without and beyond dispute.

Mr. COLLAMER. Does the gentleman say both reports show that to be so? It is directly the other way. They were elected; but they were elected, as my report shows, by that violent invasion.

Mr. HUNTER. I will quote:

"So far as the question involves the legality of the Kansas Legislature, and the validity of its acts, it is entirely immaterial whether we adopt the reasoning and conclusions of the minority or majority reports, for each proves that the Legislature was legally and duly constituted. The minority report establishes the fact, by the position that the Governor's certificate was conclusive, and that he granted certificates to ten out of the thirteen councilmen, and to seventeen out of the twenty-six representatives who finally held their seats, which was largely more than a quorum of each branch of the Legislature. The majority report establishes the same fact, by the position that after going behind the Governor's certificate, and carefully examining the facts, they confirmed these same ten councilmen and seventeen representatives in their seats, and then awarded the seats of the other three councilmen and nine representatives to the candidates whom they believed to have been legally elected at the general election on the 30th of March."

Mr. COLLAMER. That is not the election I was speaking of. The special election was only in those districts which the Governor set aside. I speak of the election of the body of the Legislature itself, the first election of the 30th of March. You say that both reports then made show that there was a majority legally elected.

Mr. HUNTER. I said the reports of the majority and minority of the committee of the Legislature of Kansas showed it. I did not refer to our committee.

Mr. COLLAMER. I beg the Senator's pardon. I thought he alluded to the majority and minority report of the Committee on Territories.

Mr. HUNTER. I said the reports of both parties in the Legislature of Kansas proved this fact. The gentleman will find it so stated in this report. But, Mr. President, this much is certain—that the laws passed for

the protection of life and property by that Legislature, were administered by the courts of the land; that the legal existence of that Legislature was acknowledged by Congress, and by the President of the United States; that it has received the assent of the people of Kansas because they have lived under its laws, and they have been the only ones which have been administered for the protection of their lives and of their property. The validity of the Legislature is sustained by as many sanctions, if we look to the forms of law for evidence, as the Legislatures of Virginia or of Massachusetts.

But suppose that these gentlemen were right; suppose there were some irregularities in the election of this Legislature; still there is one great fact which is indisputable, and that is, that it was the only government in Kansas, and that it had all the authority of a government *de facto*. Now, sir, we know that all civilized nations and all publicists recognize the authority of a government *de facto*. They recognize that authority because, as was well said by President Polk when he declared that the military government in California was the only government in existence, unless you acknowledge such a government you permit anarchy; and civil societies not only presume against it, but they defend themselves against anarchy as animated beings protect themselves against death. It is the very necessity of their existence. The law of their being requires them to do so. I say, then, that if it were not a government *de jure*, it was indisputably a government *de facto*; and according to all the prescriptions of society, according to all the maxims of law, its action must be recognized as valid, for there was no government in that Territory to dispute its authority.

Then, sir, if its action was valid, it was by law that it ordered the sense of the people to be taken in regard to a convention; it was by law that it ordered members to be elected to that convention; and it is nothing to say that a majority of the people of Kansas, although allowed to do so, refused to vote at that election. There is nothing in this objection, because it is everywhere admitted that those who do not vote in a free representative government are bound by the action of those who do. What is the right of a majority according to those who claim most for it? The right of a majority is to determine a question which is submitted to the vote of a people for decision; it is their right, too, to elect the members when they are to be elected by popular vote; but that is the full extent of all they can claim. A majority have no right to say that they will refuse to vote, and thereby create anarchy, chaos, and confusion. No such right could be acknowledged consistently with the existence of representative government itself; and yet it is precisely this which is claimed in this case. The very existence of free representative government itself requires that you should insist that the majority, who could control if they would, must be governed by the minority who do vote, if they themselves refused to act. This is necessary because the Government must go on; and you must presume against anarchy, and save civil society from its evils.

It is nothing, then, that these persons refuse to vote at a time when they might have done so. I know that it is said, in relation to the question whether there should be a convention, that there were some tests required; but the same cannot be said in regard to that election in which members of the convention were chosen. The majority, if it existed, could have controlled things as they desired. The right thus to control has never been disputed; that right has never been taken away from them; but when they come here and claim more, and affirm the right by refusing to act, and refusing to discharge their legal duties, to create a state of anarchy



in a community, they claim what never can be, and never ought to be, accorded to them.

In regard to the other objections, that some of the counties were unrepresented, it has been so fully and completely answered that I think I need not take up your time by further adverting to it; for it has been shown that it was a minority of the people, at best, who lived within them; that, if the census was not taken there, it was because the free State party would not permit it to be taken; and that, in any point of view, there were not persons enough in these counties to have affected seriously the representative character of the convention.

I come now to the other class of objectors; to those who object to the authority of this convention because it wanted the support of an enabling act on the part of Congress. What, let me ask, are the functions of an enabling act? An enabling act is, in the first place, a declaration on the part of Congress, that within certain boundaries there is a people who are sufficiently numerous and matured as a society to claim admission into the Union, if they present a constitution republican in its form. It is also an invitation to those people thus to meet and present their constitution for admission. When they do that, Congress is bound in good faith to pass whatever further acts may be necessary, in order to admit them into the Union. But, Mr. President, all that is necessary in order to justify the admission, is that there should be the application of a people who, within proper boundaries, are sufficiently numerous and sufficiently matured as a society to qualify them for entrance into the Union, and that their constitution should be republican in its form. Whenever that case is presented, there is the justification for Congress to enter into the compact with the State which is necessary in order to admit it; a compact to which there are two parties—the people of the State applying for admission on the one hand, and the Congress of the United States agreeing to admit it on the other. The difference between the two cases is, that in the one Congress is morally bound by its previous pledge, and in the other it acts merely upon the propriety of the application, judging it by the circumstances under which it is made. As a proof that it is so, we have been referred, over and over again, to the numerous instances in which States have been admitted without any enabling act.

Let us proceed now to the other objection, that the constitution is not to be considered as the act of the people, because it was not submitted as a whole to that people for their ratification. This idea proceeds on the supposition that it is not competent to the people of a State to express their sense of their interests and their wishes on the subject of a constitution through the means of representatives in a convention; that it is not competent to a people to meet and declare that they wish to confide their whole power in this convention, and that their act, whatever it might be, should be final. To assert this, is to declare that there is no capacity in representatives to represent the views and interests of the people; because, if there be a capacity in representatives thus to express their wishes and interests, surely the people have the right to express themselves in whatever practicable mode they may themselves prefer. If the capacity be admitted, no man can doubt the right of the people to say that the acts of their representatives shall be final and conclusive. If, then, we say there is not a capacity in a representative assembly to express the opinions and wishes of the people in regard to matters of constitution, is it not obvious that that capacity does not exist in relation to matters of law? And the result would be that a popular form of government is only possible in

those communities where there is a small number of people, and where they can meet and deliberate together.

But, sir, I think it will not be difficult to show that this principle is impracticable, and could not possibly be executed. If you must have the sense of the people in regard to a constitution, in order to make it their will and make it valid, then you must not submit it as a whole, but must submit it in parts; you must submit it proposition by proposition to gather their will precisely; because, although they might prefer the instrument, when submitted as a whole, to the old form of government, it does not follow that they are in favor of all the provisions which it contains. If, then, you should submit it to them proposition by proposition, this result might follow: that after the majority had struck out such parts as they disliked, the constitution, as a whole, would turn out to be a very different thing from what anybody had expected or desired. Then you would be forced to resubmit it again, or call another convention to change the form in which it is to be presented a second time; it would thus be found that, in a large community, it would be impossible to take the sense of the people on the different parts of the constitution. I say, therefore, that it would be impossible to carry out this doctrine in order to ascertain the popular will on the subject of their constitutions.

But, sir, Congress is to send it back, and require its submission as a whole. Let me ask you what right has Congress to send this constitution back, and require its submission to the people, if the people, through their representatives, say they do not desire it to be thus submitted? The right to require this ratifying vote must rest with those people, or it must rest with the Congress of the United States. It cannot be in both; and if the Congress of the United States can say it shall be submitted, it must also declare to whom it is to be submitted; it must prescribe the right of suffrage; it must say who shall constitute the body politic. It may provide that it must be submitted, not merely to whites, but to negroes, to Indians, and to aliens; and in thus prescribing who shall be the body politic, and who are the voters to decide upon it, they may determine that no constitution shall be brought here that does not permit an absolute equality among those races. That is a matter not within the jurisdiction of Congress, but within that of the people of this inchoate State, who are acting in the capacity of the people of a State. To deny them such a right would be to deny their equality with the other States of the Union. It may be said that the people of a Territory have no such sovereignty. True; but the people of a State do possess it, and if Congress agrees to their application, its act of admission relates back, and recognizes their action as that of the people of a State.

Not only, then, is this doctrine, in the latitude in which it is laid down, impracticable, but I affirm that the submission which was made was the very fairest that could possibly have been offered. The great question of division among them was in regard to slavery. Who can doubt that? This was the only question submitted. If the constitution had been submitted as a whole, you could not have ascertained their sense accurately in relation to the great matter of dispute. An anti-slavery man might, perhaps, have voted for the constitution because there were other provisions which he liked; and a pro-slavery man might have voted against it because there were other provisions which he disliked; but when you presented it to him to determine that question, and that question only, you took the precise expression of the popular voice in regard to that subject.

I know, sir, it has been said that the question was not submitted because



the people were required to vote for the constitution before they could express an opinion on the subject of slavery. That, I say, with all deference to the respectable gentlemen who have maintained the proposition, seems to me to be a mere verbal quibble. Why, sir, what was it for which the voter was responsible when he voted under this submission? He was responsible only for expressing an opinion in regard to that matter which his vote could affect, and not for any declaration of sentiment as to other provisions in the constitution which his vote could not affect; and what was there in that instrument which his vote could affect. Surely it was only the subject of slavery itself.

Well, Mr. President, to confirm this action of the Lecompton convention, we have the fact that some eleven or twelve thousand persons—I will not be precise as to numbers—voted for the officers who were to compose the new government under this constitution, and that they did so not merely with a simple assent to the constitution, but with the express declaration that they would support it, for they were not allowed to vote until they agreed to sustain the constitution—that is to say, to sustain it if adopted, until it should be legally changed or abolished. Such, in my opinion, was the pledge when fairly construed.

Against all this, we are referred to the vote which was taken on the 4th of January under the law of the Territorial Legislature, as evidence that the people of Kansas are opposed to this constitution. Mr. President, I deny that this vote is an element in the argument. If the convention at Lecompton was valid, if its acts were authorized, then this Legislature had no authority to pass a law to take the sense of the people; they had no authority to do that which belonged to the convention itself to do; for it was for that body to take the sense of the people in regard to its action, and not for a Legislature which came into being afterwards. If we admit the State under that constitution, and thus acknowledge that it was a State, the act relates back to the time of the adoption of the constitution; and nothing that was inconsistent with its provision is legal and valid. If, on the other hand, this convention was not an authorized body, that settles the question itself; and it is useless to look further to the votes in relation to it. If it were an unauthorized body, there is no validity in its acts, and it is idle to count the votes that were cast against it.

But, sir, we are told that whatever may be the evidence which has been taken, according to the forms of law, whatever may be the legal presumptions in this case, we ought not to regard them when there is such palpable evidence that a majority of the people of Kansas are against the adoption of this constitution. Here lies, in my view, the most plausible of all the arguments which have been urged against it. We must remember that the very existence of popular government itself requires that we should take no evidence in regard to the popular will, save that which is presented according to the proper forms of law. That principle is necessary to protect the right of self-government in a representative system; and I think I have shown you, sir, that according to that evidence which has been taken in conformity with the forms of law, this constitution is to be considered as the valid act of the people of Kansas. But I put aside that for the present; and I come to this other argument, that whatever may be the legal presumption, here is positive evidence that a majority of the people are against this constitution.

Mr. President, I pass over the circumstances that this vote on the 4th of January was an *ex parte* proceeding; that it has not been exposed to the wholesome test of an adversary scrutiny; that circumstantial evidence has

been adduced to show that more votes were cast in certain places than could possibly have been fairly given there. I pass over all these considerations, and I ask whether this fact itself does present conclusive evidence that the people of Kansas are against this constitution? What is it that is expressed by this vote in which the ten thousand majority was given? We are not to infer from it that this majority were not allowed to carry out their will in regard to the constitution, and that therefore we are to afford them some redress for that grievance; we are not to infer that, because it is plain they could have carried out their will had they chosen to do so. If this majority did exist, they could have prevented any convention. If it did exist after a convention was called, they could have elected their own members, and made the constitution what they pleased. If, after the constitution was formed and submitted, they had chosen to do so, they could have stricken out that feature of slavery which presented to their minds the only real objection to it. They come here, therefore, not to complain that their will was defeated; for, in that event, they would have been entitled to the respectful consideration of Congress; they make no such complaint, because such was not the fact; but they come here to complain because we will not agree to say that a majority of the people, under a representative government, shall, by refusing to vote, and by refusing to discharge their duties under the law, create a state of anarchy and confusion, and put an end to all government in the country to which they belong. Is such a demand as that entitled to respect? Can there be any equity which should induce us to regard such a claim? If they came here to say that a majority had not been allowed to vote on the question of the Convention—if they came here to say that a majority had not been allowed to elect the members to this convention—there might be something in the complaint; indeed, there would be good cause of remonstrance; but that is not their objection, as I understand it. Their complaint, I repeat, is that we will not agree that they, by refusing to act at all, shall produce a state of anarchy, of chaos, and confusion, in that Territory.

But, sir, suppose that we were to lay aside all law, all the presumptions as to legal evidence, and endeavor to ascertain the natural equity of the case, in order that we might conform to it—I do not say it could be safe, or proper, or right to do that; but I will suppose we were endeavoring so to act—what would be the equity which we should consult? The equity is, that the will of a majority of those who are *bona fide* inhabitants of Kansas, who intend to make a common fortune with that Territory, and who are guided in reference to its constitution by a view to its interests, should be respected. But suppose it were proved—I will make the case a supposed one—that most of those composing this majority consisted of persons who did not cast their votes in reference to the interests of Kansas, but in reference to undue outside influences in Massachusetts or Missouri; suppose it were proved that this number was not composed of *bona fide* residents, who intended to live permanently in Kansas, but that many of them were persons who would leave the moment affairs were regularly settled; suppose it were proved, too, that many of them were maintained by money furnished from without the Territory of Kansas, for the purpose of keeping up a state of disorder and confusion; would any man say that, in equity, the votes of such persons were entitled to any more respect here, because they happened to be cast in Kansas, than if they had been given by assemblages in Massachusetts or in Missouri? Surely not. Is there not strong, circumstantial evidence to prove that such must have been the case with many of those voters? If it was their desire to settle the matter



n reference to Kansas' interests, and they did not constitute a majority, why did they not vote for members of the convention? Why did they not make the constitution conform to their wishes? They had the power to do so under the laws. Why did they fail? How are we to account for it, unless we suppose that they desired to keep this question open with all its agitations, no matter what might be the expense or the injury to the people of Kansas, or the destruction of the interests of that Territory? If we can suppose that, I ask, as I did before, are they entitled to our respect upon any consideration of equity which may be alleged?

But, Mr. President, I take another view of it. Suppose that this wrong was about to be perpetrated; suppose that in the admission of Kansas we were going to bring into the Union a people, the majority of whom did not desire the constitution under which it is admitted, it is a wrong which carries its own remedy with it. It will carry its own remedy immediately and swiftly, because the main subject of grievance, as we all know, is that of slavery, and the Lecompton constitution itself allows a majority of the Legislature to emancipate the slaves, provided they will pay for them; and is there any civilized Government in the world which would emancipate slaves without paying for them? Did not the English and French Governments compensate the owners? Would the Legislature of any State emancipate the negroes without paying for them? What would be the burden on that Territory of paying for some one hundred, or two hundred, or perhaps three hundred negroes? Is it a matter to be considered when they could thus accomplish their wishes and give peace to the country at so small an expense? and shall we say that we will keep up all the complications and agitations of this question because they are unwilling to make even that small exertion in order to carry out their wishes? This matter, it seems to me, cannot be considered by gentlemen who have been complaining that the will of the people of Kansas has been disappointed. In the second section of the seventh article the Lecompton constitution provides that "the Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated." Is not the power to emancipate upon compensation expressly given by these words?

It has been said, however, that the question of slavery was not the only one in regard to which there was controversy; and that the people might desire to change the constitution itself. I believe there is a large majority in Congress, a large majority everywhere, who think that the people of Kansas will have the right to change this constitution even before 1864—not for the reason given by the President of the United States, for I am not one of those who believe it is not in the power of a convention to limit the right of its successors as to a change, (that is for a limited period of time,) or to prescribe the mode in which it shall be done; but I incline to think there is no provision for the case before 1864. If there be no provision, it stands like all other States in *consimili casu*; and then, with the assent of the existing government to the call of a convention, such a body could change the constitution.

Whether this be so or not it will depend on the people of Kansas themselves to say; because, if there be a majority who believe they have the right, and who desire to change it, that majority will get possession of the Legislature, and there will then be harmony between the existing government and the new one called into being under the second constitution. The same majority would control them both, and if there were harmony be-

tween both, there is no one who could apply to the General Government for its interference. The case in which a Legislature would apply for Federal interference, under such circumstances, is, when there is an old government which is contesting with the new for authority and jurisdiction; but no such case could arise here, because the same majority would rule them both.

If this be so, if this people would have the power to change their constitution, I ask if they could not remedy the evil much more readily and completely after they were brought in as a State, than if they were remanded and sent back to their territorial condition? If they came to act on this subject as a State, they would act on it in reference to Kansas' interests and feelings alone. They would not be disturbed by the fear that unless their constitution should suit the views of a majority of Congress, they would not be admitted; but, being in the Union, they would have nothing to consider except the interest of Kansas itself. They would therefore come to a conclusion much more readily, and under much sounder and safer influences than if they were to attempt it after they were remanded to a territorial condition.

I say, then, sir, that if it be the great object of their wishes to be enabled to govern Kansas according to the wishes of a majority, and they do constitute such a majority, the readiest and easiest mode of gratifying that desire is to admit Kansas as a State in the Union. We do the majority no wrong, therefore, by such an admission; but, on the contrary, we afford them the most certain and easiest mode of securing their rights.

The argument, then, as it seems to me, stands thus: We are bound to take the evidence of the popular will, according to the forms of law as prescribed in such cases. But if we are bound to take this evidence in conformity with law, then Kansas is entitled to admission under the Lecompton constitution. If it be said, on the other hand, that to do that would be to inflict a wrong on the majority of the people of Kansas who do not desire such a constitution, the answer is, that if it does inflict a wrong it will afford them the means of righting themselves more speedily and easily than any other mode which can be devised. All they could claim would be the right to mould their institutions according to the wishes of the majority. A majority could mould those institutions much more readily and safely, and under much sounder influences, after they were admitted as a State, than if they were sent back to their territorial condition.

Why, then, sir, should any party resist the admission of Kansas under the Lecompton constitution? Not because they desire to make it a free State, for if this majority exists it is manifest they would make it a free State if they desired. They could make it so through their Legislature alone. They could make it so in the opinion of most persons by a change of the constitution. They could make it so readily and expeditiously. The opposition cannot be made for that reason. It must either be because those who oppose it desire to keep the question open for political purposes, or else because they are unwilling to admit, even for a moment, any State which tolerates slavery by its constitution.

Now, Mr. President, I will not suppose, I will not argue upon the supposition that any numerous party in this country would desire to keep open such a question, in order to continue the agitation and the differences which it might occasion. And is there any party which would be willing to declare to this country that they would not admit another slaveholding State into this Union again, no matter what might be its claims to admission in other respects? To assert the right to look into the constitution to see



whether it contains slavery or not, is to assert the right to look into it for every other purpose. If you can look into it and refuse admission to a State because its constitution tolerates slavery, you can refuse it admission because it contains other things which may not be agreeable to you. You must either claim that general power which is contrary to the equality of the States and to all our notions of their rights, or else you must insist that slavery comes under the ban of a law higher than the Constitution, and that all the constitutional guarantees are worthless and good for nothing, so far as that institution is concerned. Sir, I will not comment upon the consequences of such a declaration, at this time, to the American people. In the name of this mighty Union, and of the hopes and aspirations of thirty millions of people, I protest against any such expression of opinion on the part of this Government; and yet it does seem to me that the Senator from New York, (Mr. SEWARD,) rests his objection upon grounds very like this. He says, speaking of this controversy :

"I would have it ended now, and would have the wounds of society bound up and healed. But this can be done only in one way." \* \* \* \* "It can be done only by the simple and direct admission of the three new States as free States, without qualification, condition, reservation, or compromise, and by the abandonment of all further attempts to extend slavery under the Federal Constitution."

To sustain this extreme, and I think I may say, extraordinary conclusion, the Senator has resorted to a novel course of argument—argument I can hardly call it, for he has thrown up his brief and abandoned the bar, and taken his post in the witness stand to give what he calls a statement of the case, a history of the affair; and such a history I think I never read before. It must have been with histories of this kind that Sir Robert Walpole was familiar when he declared against any such reading as being unsuitable to the last hours of life. Here, sir, I would say, that I do not impute to the Senator from New York any design willfully to misrepresent facts, but I must say that this statement is so colored by his party views as to make it, in my opinion, utterly unreliable. Let us see how it runs :

"The people of Kansas, thus deprived, not merely of self-government, but even of peace, tranquillity, and security, fell back on the inalienable revolutionary right of voluntary reorganization. They determined, however, with admirable temper, judgment, and loyalty, to conduct their proceedings for this purpose in deference and subordination to the authority of the Federal Union, and according to the line of safe precedent."

And of whom do you suppose that is predicated? Of the Topekaites, among whom are to be included General Jim Lane and his band of marauders. Those are the persons whom he thus characterizes in his history. But, *paulo majora canamus*, he has given us a chapter on the Supreme Court, and, although it is not my purpose to trench upon the province of the Senator from Louisiana, (Mr. BENJAMIN,) who made, on yesterday, a defense of that august body so complete and eloquent, that any attempt on my part to add to it might mar, but certainly could not improve it, still, sir, by way of testing the character of this history, it may not be amiss to read a few extracts from that chapter :

"The new President, under a show of moderation, masked a more effectual intervention than that of his predecessor, in favor of slave labor and a slave State. Before coming into office, he approached, or was approached by, the Supreme Court of the United States."

Again :

"The day of inauguration came—the first one among all the celebrations of that great national pageant that was to be desecrated by a coalition between the execu-

under his arbitrary will, he will hardly have the face to stand before the world again to preach against African slavery.

Sir, of the two, I prefer to see him as he used to be, surly, domineering, if you will, but truthful, honest, and brave, rather than in that more modern part of philanthropic professions and puritanic pretences which he enacts so poorly. I know that his buffets are hard to stand; but if I am to have his opposition, let me meet him rather in open and manly encounter than receive him as the priest who wears the gown and the robes merely to conceal the coat of mail that lies within. But he will have to strip him of his robes; the Philistines are upon him, and the day is coming, I fear, which will try his strength to the utmost. Although we of the South have much to complain of at his hands, yet, sir, I wish him well through with that day; for I cannot but feel that with him would fall the last hope of regulated liberty in the Old World.

Nor, Mr. President, do I read the signs of the times in regard to sentiment at home, as they are read by the Senator from New York. I believe that even here a reaction is going on. It is said that our population, by a natural law, is to gravitate to the equator. It is believed that a manifest destiny will draw our people to the tropics, those evergreen regions of a "never wintering sun." I will not say how well-founded is this prediction, in my opinion; but I will say, that if we play for these prizes of empire, it can only be upon the condition of preserving the proper subordination of the inferior to the superior races, when they are thrown together on the same soil to struggle for a subsistence. Unless that condition is observed, such acquisitions would prove to be nothing but a continual curse and a perpetual plague. If made, it will be found that this institution of slavery, so far from being a cause of disension, and of difference, will prove a common bond of union and strength, because it will be by such means that each white man, no matter what the section in which he may live, will enjoy the largest share of power, of influence, and of wealth.

The Senator from New York says the white man will have this continent. I say so, too; and when he does possess it, he will take it, not as the Senator from New York would place him, as the equal of the Indian and the negro; but he will hold it as the master, and by right of dominion. There are some regions of the world which he can only hold in such a way. As yet I do not know whether the Senator from New York, in his scheme of society, contemplated the continual existence of these inferior races. I do not know whether he designs for them a fate which he did not care to describe, because it is to be one of utter and entire extermination; or it may be that he did not consider himself as their keeper, or choose to be so considered, when he was thus consigning his brethren to this wholesale destruction; but I will tell him that they hold to existence by a tenure as firm in certain regions of this world as that by which the white man holds his in other portions of the globe. There are certain parts of the world which are peculiarly adapted to each of these races; and I do not know that it is in the decrees of Providence to consign any of them to utter extinction. If it be true, as I believe it is to be true, that there are certain regions in which the labor of the inferior races is the only labor that can develop their resources, it follows as a consequence that the white man cannot enjoy those regions unless he goes there as the master, to govern and direct. I say then, sir, that is the only condition—that of preserving the proper subordination of the inferior to the superior races—upon which the white man can rule this continent. Are we to suppose that when the American people shall perceive this necessity, they will be blind to it, especially if



urged by those views of ambition, of progress, and of absorption, which the Senator from New York would seem to attribute to them?

Mr. President, the mind of Young America is, perhaps, this day pondering upon things of which neither the Senator from New York nor myself can be said to be properly conscious. It may be engaged in tracing out the shadows of those coming events which as yet are but vaguely defined, and in nursing aspirations for other and newer forms of development. To give a proper direction to this emotional excitement, and to open up just and legitimate avenues for the movement of the power of this pent-up energy, should be the highest objects of the care and the prevision of American statesmen.

The other great nations of the earth are now exploring the land and the sea to open up new avenues to power and to wealth; but to us, if the waifs of commerce come, they must be brought to us as *flotsam* and *jetsam*—by the impulse of the wind and the wave. The three chief nations of Europe are playing for the mighty stakes of fortune and the prizes of empire; but we are engaged in an earnest scrutiny into the ballot-box at the Delaware Crossing or at Shawneetown, or busily employed in studying the campaigns of General Jim Lane, whose *spolia opima* consist, I believe, in the capture, perhaps, of women and children. If empires were to go to pieces, we should be incapable of extending an arm to catch but a fragment of the wreck that might be floating on the stream of time beside or before us.

In the Eastern world spoils of empire that have been accumulating since the earliest records of time, begin now to attract the regards and the cupidity of the great Powers of Europe. Their fleets are already coasting along that slender barrier which separates them from the mighty prize, but which they are deterred from grasping more from the fear of each other than from the dread of any opposition which they are to encounter there.

The eagles have indeed gathered to the banquet. But one alone is absent from the feast, and she is the youngest mother of them all. She is at home, guarding her nest, because she is afraid that if she leaves them her young will not dwell together in peace. Sir, such a state of things cannot long endure. The instincts of power and of empire must of themselves prevent it. This Kansas question has been reduced to proportions quite too small further to impede our progress, or to manacle our march. If the Senator from New York will allow me to use his tripod for a moment, and to venture a prediction for the future, I would say that the American people will preserve their Constitution, and the Union which is founded upon it; they will maintain their courts; they will continue to cherish respect for the judicial ermine and for the majesty of the law; and they will cultivate hereafter, as I trust, a spirit of peace and of friendship at home. For one, I hope for the day when, in the beautiful language of Mr. Jefferson, "we may unite with one heart and with one hand to restore to social intercourse that harmony and affection without which liberty, and even life itself, are but dreary things." Yes, sir, I will venture still to hope—

"For I have seen  
The thorn frown rudely all the winter long,  
And after bear the rose upon its top."

But, sir, if the American people would secure these blessings, they must cast far from them the counsels of the Senator from New York; they must

beware of the asp which lies concealed under those flowers of rhetoric with which he sought so carefully to cover it. One drop of that venom may corrupt the blood which has flown through royal veins for centuries, and distemper the brain on whose proper balance the power and the peace of an empire may depend.